

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOHN S. GERTSCH,
Petitioner,

Civ. No. 09-99-CL

v.

BRIAN BELLEQUE,
Respondent.

ORDER

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Although no objections have been filed, this court reviews legal principles *de novo*. See Lorin Corp. v Goto & Co., Ltd., 700 F.2d 1202, 1206 (8th Cir. 1983).

I agree with Magistrate Judge Clarke that petitioner procedurally defaulted on his federal constitutional claims, and failed to show cause and prejudice or that any exception to the

exhaustion requirement applied. Accordingly, I ADOPT the Report and Recommendation of Magistrate Judge Clarke.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#50) is adopted. The petition (#2) is dismissed.

IT IS SO ORDERED.

DATED this 18 day of January, 2011.

A handwritten signature in cursive script, reading "Owen M. Panner", is written over a horizontal line.

OWEN M. PANNER
U.S. DISTRICT JUDGE